



October 1, 2008

Via E-mail and U.S. Mail

Massachusetts Department of Energy Resources
100 Cambridge Street
Suite 1020
Boston, Massachusetts 02114

Re: RPS Import Feasibility Study

Dear Sir/Madam:

Pursuant to Section 105(g) of the Green Communities Act (the "Act"), the Department of Energy Resources (the "DOER") was tasked with, among other things, a study to determine the feasibility of requiring that renewable resources that are external to the ISO-New England Control Area ("ISO-NE") (1) commit their capacity to the ISO-NE and (2) for RPS purposes, net their renewable imports into the ISO-NE from their exports of energy out of ISO-NE. The Act requires the DOER to conduct such study and, if such provisions are feasible, propose and adopt regulations implementing the relevant sections. The DOER is seeking comments from the industry on these matters and recently held a public "Imports Stakeholders Forum" on September 23rd (the "Public Forum"). Ridgewood Renewable Power ("Ridgewood") attended and spoke at the Public Forum and hereby submits its comments to the DOER on the questions the DOER has presented to the industry.

Before discussing Ridgewood's views on "feasibility," we would like to provide some background that we believe expresses the Massachusetts Legislature's intent in enacting Section 105(c) and (e).

Background – Need for he Import Requirements

The Massachusetts RPS ("MaRPS") was enacted in the Electric Restructuring Act of 1997 and ultimately implemented by the DOER through regulation in 2002. The purposes ostensibly for the RPS were first to increase to the supply of renewable generation to Massachusetts specifically and New England generally and second, if possible, spur economic growth in the Commonwealth and the region. The latter goal is clearly more parochial than the former. However, despite this, Massachusetts, unlike many other states (including New York and, particularly the western states) did not adopt legislation or regulations that in any manner favor in-state or in-region renewable generation.

The MaRPS flourished and became, in Ridgewood's view, one of the most successful RPS programs in the country. Like any success, the MaRPS has drawn a crowd. Since 2002, qualified renewable generation increased from 250,219 renewable energy certificates ("REC") in 2002 to 1,861,188 REC in 2007 and an estimated 2,555,106 REC in 2008. Coincidentally, imports of qualified renewable energy increased from nothing in 2002 to 622,886 REC in 2007 and an estimated 1,243,468 REC in 2008.¹ Currently, no external renewable generator qualified to participate in the MaRPS is a capacity resource for the ISO-NE, while virtually all internal renewable generators currently qualified are capacity resources in ISO-NE². These qualified internal resources are providing Massachusetts ratepayers with four products: renewable energy, capacity, ancillary services and REC. In return, they are paid by Massachusetts ratepayers for all such services, including a very favorable MaRPS REC price paid by Massachusetts ratepayers. By contrast, qualified external resources are providing Massachusetts ratepayers with only two products: renewable energy and RECs **but they are receiving the same REC prices as the internal resources**. As a result, ISO-NE does not "recognize" these resources for capacity purpose and will ultimately have to go to the market and buy the capacity that such external resources would have otherwise provided. Massachusetts ratepayers are those overpaying external resources for their REC and paying to build the capacity these resources do not provide. In a very real sense Massachusetts is being short-changed.

In addition, the practice that has become known as "greenwashing" is extremely harmful and costly to Massachusetts ratepayer. Such practice involves the "same" party delivering (importing) MaRPS-qualified energy to New England while during the same period exporting system (brown) energy out. The net effect of such export is to reduce (and depending on the amount of exported energy perhaps eliminate) the renewable benefits of the import. While no one has uncovered hard evidence of it, primarily because no one has looked, Ridgewood believes that this practice has occurred only inadvertently. However, whether accidental or planned, the end result of greenwashing is that the importing-exporting party receives payment for the REC while no fossil-fueled generation was backed down (as presumably it was needed to generate the export).³

The Massachusetts Legislature recognized these problems and, in attempt to correct them and level the playing field enacted Section 105 to require external resources to provide the reliability and products that internal resources have been providing. They considered the potential costs and difficulties of compliance and required compliance in any event, provided such compliance is feasible. As a result, we have the DOER's study.

¹ Enclosed, as Exhibit A, is an analysis of the Massachusetts RPS supply, requirements and imports for the period of 2002-2008.

² Excluding internal behind-the-meter generators and other small generators. For more details, see Exhibit B, a summary of capacity-qualified MaRPS generators.

³ Ridgewood acknowledges that the actual functioning of regional power pool and imports and exports is more complicated than the simple examples used in these comments. Such simplistic examples, however, nonetheless highlight the very real disadvantages to Massachusetts ratepayers that these activities create.

1) **Feasible should be given its plain meaning: “capable of being done”.**

Ridgewood asserts that the DOER should define “feasible” as intended by the legislature and as the word is commonly defined and used: “capable of being accomplished or brought about; possible”. *See, Webster’s II New College Dictionary 417 (2005)*. At the Public Forum there were numerous representatives of the wind industry⁴ who claimed that the DOER’s determination of feasibility should consider, among other things, the potential costs of compliance, the complication of compliance with ISO-NE capacity rules⁵, and the potential for disparate penalties between external and internal resources to support their position that the DOER’s feasibility considerations should incorporate essentially a “cost-benefit” analysis. The DOER has likewise questioned whether their feasibility determination should incorporate consideration of these and other factors. The DOER, as well as those advocates of this cost-benefit consideration argument, is simply wrong. Feasibility in the context of Section 105 requires only a determination of whether external resources committing their capacity to ISO-NE can be done or accomplished and not consideration of any other extraneous matters, including the costs of or the difficulties associated with compliance. This view of the word “feasible” has been adopted by the United States Supreme Court albeit under different factual circumstances. *See, American Textile Manufacturers Institute v. Donovan, 452 U.S. 490, 508-09 (1981)*.

In *American Textile*, the main question presented to the Supreme Court was whether a certain provision of the Occupational Safety and Health Act (“OSHAct”) required the Secretary of Labor when promulgating rules thereunder to conduct essentially a cost-benefit analysis. The relevant section of the OSHAct, §6(b)(5), provided:

[t]he Secretary, in promulgating standards dealing with toxic materials or harmful physical agents under this subsection, shall set the standard which most adequately assures, *to the extent feasible*, on the basis of the best available evidence, that no employee will suffer material impairment of health or functional capacity even if such employee has regular exposure to the hazard dealt with by such standard for the period of his working life. Emphasis in the original.

Pursuant to this authority the Secretary of Labor promulgated a standard limiting the exposure to cotton dust. *See, Id. at pg 494*. Petitioners challenged the Cotton Dust Standard contending that OSHAct requires the Secretary to “demonstrate that its Standard reflects a reasonable relationship between the costs and benefits associated with the Standard.” *Id.* The Respondents, on the other hand, contended that Congress’ use of the words “to the extent feasible” indicated that it had already balanced the costs and benefits in OSHAct thus precluding the Secretary from doing so. *Id. at 494-495*. The Court, in deciding the matter, stated:

⁴ Ridgewood considers it curious that there appears to be little, if any, objection to Section 105 from external baseload generators and that, once again, it is the wind industry seeking less stringent qualification and compliance due to, what else, the intermittent nature of its generation.

⁵ Ridgewood found it incredible that the representative of Suez Energy appeared to claim as a justification for infeasibility the fact that the ISO-NE rules on external resources committing capacity are just too complicated to understand or follow.

The plain meaning of the word “feasible” supports respondents’ interpretation of the statute. According to Webster’s Third New International Dictionary of the English Language 831 (1976), “feasible” means capable of being done, executed, or effected.” Accord, The Oxford English Dictionary 116 (1933) (“Capable of being done, accomplished or carried out”); Funk & Wagnalls New “Standard” Dictionary of the English Language 903 (1957) (“That may be done, performed or effected”). Thus, § 6(b)(5) directs the Secretary to issue the standard that “most adequately assures ... that no employee will suffer material impairment of health,” limited only by the extent to which this is “capable of being done.” In effect then, as the Court of Appeals held, Congress itself defined the basic relationship between costs and benefits, by placing the “benefit” of worker health above all other considerations save those making attainment of this “benefit” unachievable. Any standard based on a balancing of costs and benefits by the Secretary that strikes a different balance than that struck by Congress would be inconsistent with the command set forth in § 6(b)(5). Thus, cost-benefit analysis by OSHA is not required by the statute because feasibility analysis is.

Id. at 508-09. *See also, Friends of the Boundary Waters Wilderness v. Robertson*, 978 F.2d 1484, 1487-88 (8th Cir (1992) (rejecting cost-benefit analysis in application of an environmental statute prohibiting motorized portage of canoes unless a non-motorized alternative was not “feasible”); *Citizens to Preserve Overton Park, Inc. v. Volpe*, 401 U.S. 402, 411 (1971)(statutory provision prohibiting highway construction in park land unless there is no “feasible” alternative admits of “little administrative discretion;” a balancing of interests is inappropriate if the highway can be built along “any other route”). The Court further noted that, if Congress intended that a feasibility determination include factors other than simply whether the thing can be done, such as costs and benefits, it clearly indicated such intent by expressly including a review of feasibility in relation to costs or such other factors. **See, Id. at page 510.**[ADD references] *See also, California Environmental Quality Act Guideline, §15364; Pub. Resources Code §21061.1*(“[f]easible means capable of being accomplished in a successful manner within a reasonable period of time, *taking into account economic, environmental, legal, social and technological factors*”). Emphasis added.

With respect to Section 105, indeed, the very establishment by the Massachusetts legislature of the feasibility study indicates that the Legislature has already considered the costs and benefits of external resources committing capacity to ISO-NE and has struck a balance in favor of the benefits to New England by requiring that capacity be committed, assuming it can be done, i.e. feasible. As with other legislation quoted above, the Massachusetts Legislature could have easily added to Section 105 a requirement that the DOER consider other factors such as public policy, economics, technical restraints, and the complexity (allegedly) of such compliance. All of these possible impediments to

compliance were clearly presented to the legislature during the debate of Section 105⁶. The Legislature heard their views and did not add any such considerations to Section 105. The DOER should not substitute its public policy views for those of the Legislature.

2) **Subsections (c) and (e) of Section 105 can be implemented.**

Ridgewood firmly believes that subsections (c) and (e) of Section 105 can be implemented on January 1, 2009. ISO-NE Market Rule No. 1 currently provides for the manner and method in which external generation resources can participate in the ISO-NE capacity markets. Specifically, Market Rule 1 sets forth in detail the process through which capacity imports may participate in the market, including registration, contract formation and energy supply offers. In addition, Market Rule 1 sets forth the process of how an external resource offers and supply energy to the ISO-NE Control Area.

Generally speaking, the main obligation of the external resource is to offer energy up to its capacity obligation into the Day-ahead market of the ISO-NE and to deliver such amounts of energy, either from the designated unit or from any other source. Thus, if the external intermittent resource were deemed a 25 MW capacity obligation for ISO-NE purposes (despite it being a 100 MW facility) it would be required to schedule Day-ahead 25 MW. If, for whatever reason, the facility is not producing 25 MW, that external resource would need to purchase the shortfall from the Real-time market of the adjacent control area and deliver that purchased energy to the ISO-NE. (Ridgewood also believes that external generation resources should be able to back their capacity obligation to ISO-NE with capacity from the control area of the resource, provided that the resource still complies with the Day-ahead scheduling requirement).⁷

In practically all circumstances, Ridgewood believes that the purchase in the Real-time energy market will be economically advantageous to the external resource. In such circumstances, the external resource is not penalized at all by the ISO-NE as it considers such import schedules on a "unit-blind" basis, leaving the external resource free to deliver energy from either its facility, the adjacent control area or any other source in the adjacent control area. The failure of the external resource to purchase the shortfall in the Real-time market would result in a penalty only to the extent that the facility procured replacement energy in the zone of the source at a cost over that of the energy price at the sink in ISO-NE. Finally, ISO-NE would calculate any measures relating to Poorly Performing Resources (*i.e.*, Market Rule 1, Section III.8.7.1.2) solely on the basis of delivered transaction energy. The actual performance or availability of the external resource such that was articulated at the Public Forum that intermittent external units will be precluded from participating in the Forward Capacity Market on the basis of actual availability factors appears to be incorrect.

⁶ Indeed Ridgewood attended several meetings in which representatives of external renewable generators presented the very same arguments to the Legislature, which rejected them, but they now try to argue them again before the DOER.

⁷ Enclosed, as Exhibit C, is proposed draft regulation for capacity-backed imported renewable energy.

Despite the existence of Market Rule 1, an articulated methodology for participation in the ISO-NE capacity market, representatives of the wind industry raised at the Public Forum numerous “obstacles” to their ability to commit their capacity to the ISO-NE ranging from the imposition of penalties to the complexity of the current ISO-NE rules that would apply.⁸ The fact that Market Rule 1 may be obtuse and difficult to understand is certainly not a justification for determining that compliance is not feasible. In addition, nothing under the law requires that the rules and regulations of participation in a market need be “equal.” The inescapable fact is that external resources are different than internal resources in many significant ways. First and foremost, of course, is that ISO-NE cannot monitor external resources like it can monitor internal resources (whether they have committed their capacity or not). That difference alone justifies different rules for participation in the capacity markets. External resources should not be permitted then to escape the commitment of their capacity to ISO-NE because the rules applicable to their doing so are different or are hard to understand. There is nothing in Market Rule 1 that makes such commitment infeasible.

With respect to the netting or “greenwashing” requirement the feasibility of implementing that regulation depends on how broadly the DOER defines its scope and breadth. It is particularly difficult to design a regulatory regime to prevent such activity whether, when, how and to what extent it may be occurring. Ridgewood believes that the legislature intended the netting regulation to be more preventative. To have the DOER review the activity and the likelihood of occurrence and adopt regulations that clearly articulate its disfavored status, impose penalties for its occurrence (i.e., the netting of the RECs) and a relatively simple oversight regime. At the Public Forum, people spoke of the potential complexity of implementing this regulation and the potential ruination of trading desks. While the language in the Act may be a bit expansive, Ridgewood believes that the legislative intent was for something considerable more limited in scope. Ridgewood believes that the legislature meant to preclude a person seeking REC for renewable energy delivered to ISO-NE for a given period from receiving full REC credit for such energy if, during the same period, that party or an affiliate knowingly exported out of ISO-NE system energy during that same period back to the control area where the resource is located. This presumes that the party seeking the REC credit has the authority over and arranged, negotiated or participated in BOTH transactions.

It would be extremely difficult, if not impossible, to track all of the transactions of a party’s affiliate that happens to be or have a trading desk. Ridgewood believes that the Act does not require the DOER to go that far. Trading desks engage in numerous transactions within and between various pool trading different products on different terms

⁸ One representative of the an external wind developer asserted that his company elect to file an indication of interest in the current ISO-NE Forward Capacity Market so that they can understand and learn the ISO-NE’s rules regarding capacity from external resources. He also seemed to indicate that if they can not understand them or decide that it is too cumbersome that they remain free to not participate in the forward capacity market. To Ridgewood, this action highlights the crux of the complaints: the external generators want to participate in the ISO-NE market only to the extent that it is easy, relatively speaking, penalty-free and lucrative. If not, they want to be free to “leave” the market and find a more agreeable market in which to participate. While from a pure business view point that is perfectly acceptable but RPS qualification should be based on more than a transient commitment to ISO-NE.

and for a variety of reasons and purposes. Moreover, these “trading desk” transactions often times occur at a remarkable pace; thus, greatly limiting the ability for the trading desk to conspire with its affiliate (or among itself) to wash the REC. Ridgewood believes that the intent of Act can be satisfied if the DOER adopts regulations that prohibit parties from knowingly engaging in wash transactions with the intent to wash the REC.

The prohibition can apply to the party seeking the REC and cover both import and export transactions during a specified period wherein such party arranged, negotiated, participated in such transactions. As indicated above, such limitations would preclude practically all of the transactions engaged in by a party’s trading desks. The period in question should cover at a minimum a reasonable period of on-peak and off-peak times. Ridgewood suggests that such period should be a week since a week would cover nearly equal amounts of off-peak (88 hours) and on-peak (80 hours) hours.⁹

Ridgewood recognizes and agrees that enforcement is difficult and that the DOER may not have the manpower to support such enforcement. Ridgewood proposes and would be comfortable with industry-imposed enforcement coupled with disclosure, with appropriate confidentiality, of trading records to third parties such as ISO-NE and the Program Administrator of the NEPOOL GIS. What that means essentially is that, if the DOER adopts regulations prohibiting the activity, a party selling RECs may be susceptible to a netting reduction in its supply of RECs if it engages in the prohibited activity. As a result, counterparties will seek appropriate representations and warranties from such parties that they have not engage in any such greenwashing transaction. In such case, the DOER will have implemented the legislation in the least obtrusive manner and in a way that Ridgewood believes will prevent the activity but also allow the DOER time to evaluate the regulations and make appropriate changes in oversight through subsequent amendments.

3) Commerce Clause considerations.

At the Public Forum, representatives of external resources argued that Section 105 is discriminatory and imposes different burdens upon external resources than it does upon internal resources. These supposed discriminatory results generally fell into two categories: (1) the differences between how an external and internal resource participate in the ISO-NE capacity market and (2) the fact that Section 105 does not impose similar requirements upon internal resources.

With respect to the first category of alleged unequal treatment, Ridgewood does not believe that such differences would be sufficient to mount or succeed with a Commerce Clause challenge. Initially, the regulations that impose such differences are those adopted and implemented by the ISO-NE and are intended to reflect the realities of the energy market. Assuming that these ISO-NE regulations could be deemed to be state imposed as they must be complied with in order to participate in the various New England RPS programs, the Commerce Clause would still not prohibit their imposition on external resources. The Commerce Clause does not require equal treatment but only

⁹ Enclosed, as Exhibit D, is a proposed draft regulation for eliminating greenwashing.

prohibits state laws and regulations that unfairly burden interstate commerce. The ISO-NE rules that apply to external imports are of necessity different than those that apply to internal resources. These differences are all based on the realities of how power pools operate, are demonstrably justified and are not based upon economic protectionism. See, e.g., Meekins v. City of NY, 524 F.Supp. 402 (S.D.N.Y. 2007).

The real root of the Commerce Clause issue is that Section 105 imposes obligations upon external resources that are not similarly imposed upon internal resources. Ridgewood agreed to this requirement for internal resources during the legislative debate. While not conceding any Commerce Clause infirmities in the Section 105, such infirmities would be eliminated if the Section 105(c) and (e) were extended to also apply to internal resources. Accordingly, Ridgewood supports the requirement that all MaRPS resources (whether internal or external) should subject to the Section 105(c) and (e), provided that such requirement can be imposed by the DOER in regulation and not by statute.

Please review our comments. If you have any questions about them, do not hesitate to contact either Dan Gulino or myself.

Sincerely yours,

A handwritten signature in blue ink that reads "William P. Shotwell". The signature is written in a cursive style with a horizontal line underlining the last name.

cc: Daniel V. Gulino, Esq.

enclosures

Exhibit A

ANALYSIS OF MASSACHUSETTS RPS SUPPLY & REQUIREMENT (2002-2008) (MWh)

Year	First Quarter Production	Second Quarter Production	Third Quarter Production	Fourth Quarter Production	Annual Total Production	MASS RPS (1) Requirement	(Shortfall) <u>Surplus</u>	Percent Compliance	Annual Percent Increase in RPS Requirements
2008 (2)	519,566	557,137	683,916	794,487	2,555,106	1,803,734	751,372	141.7%	18%
2007	412,369	412,023	491,522	545,274	1,861,188	1,534,831	326,357	121.3%	22%
2006	167,350	197,264	253,775	359,741	978,130	1,253,600	(275,470)	78.0%	22%
2005	87,239	146,384	200,664	229,379	663,666	1,031,176	(367,510)	64.4%	37%
2004	55,796	99,828	128,267	171,293	455,184	750,954	(295,770)	60.6%	51%
2003	44,246	80,956	89,900	100,244	315,346	498,344	(182,998)	63.3%	N/A
2002	37,088	54,582	72,548	86,001	250,219	N/A	N/A	N/A	N/A
MWh Increase 2003-2007	368,123	331,067	401,622	445,030	1,545,842	1,036,487			
% Increase 2003-2007	832%	409%	447%	444%	490%	208%			

(1) Includes no requirement for Rhode Island RES, CT Class I REC or the Maine New RPS.

(2) Assumes 1,335 GWh of 2008 domestic production, a 10% increase over 2007 domestic production, plus 100% increase in imported production over that of 2007 imported production

Blue indicates actual.

Burgandy indicates forecast.

Data obtained from the NEPOOL GIS or Mass DOER websites

ANALYSIS OF MASSACHUSETTS RPS UNIT-SPECIFIC IMPORTS VERSUS MASSACHUSETTS RPS SUPPLY (2002-2008) (MWh)

Year	First Quarter <u>Imports</u>	Second Quarter <u>Imports</u>	Third Quarter <u>Imports</u>	Fourth Quarter <u>Imports</u>	Annual Total <u>Imports</u>	Mass RPS <u>Supply</u>	Percent <u>Imports</u>	Growth In Mass RPS <u>Imports</u>	Growth in Mass RPS <u>Supply</u>
2008 (1)	261,444	231,074	318,316	432,634	1,243,468	2,555,106	48.7%	99.6%	37.3%
2007 (2)	131,874	115,537	159,158	216,317	622,886	1,861,188	33.5%	160.0%	90.3%
2006	27,833	33,796	53,597	124,363	239,589	978,130	24.5%	47.2%	47.4%
2005	44,321	42,538	41,534	34,421	162,814	663,666	24.5%	78.4%	45.8%
2004	4,024	20,334	30,124	36,799	91,281	455,184	20.1%	N/A	44.3%
2003	0	1	0	0	1	315,346	0.0%	N/A	26.0%
2002	0	0	0	0	0	250,219	0.0%	N/A	N/A

MWh Increase 127,850 95,203 129,034 179,518 531,605 1,406,004

2004-2007 % Increase 3177% 468% 428% 488% 582% 309%

2004-2007 (1) Assumes a 100% increase in imported production over that of 2007 imported production qualified for the Mass RPS
(2) Excludes approximately 48 GWh of production from Seneca Landfill and 4 GWh from Boralex Ashland

Blue indicates actual. Burgandy indicates forecast.

Data obtained from the NEPOOL GIS or Mass DOER websites

Exhibit B

Capacity-Qualified Massachusetts RPS Generators

<u>DOER #</u>	<u>MSS ID Number</u>	<u>Name</u>	<u>Fuel</u>	<u>Nameplate Capacity</u>	<u>ICAP Rating</u>
LG-1001-02	MSS-953	Attleboro	Landfill Gas	1.5	0.458
BM-1002-02	MSS-446	Indeck Jonesboro	Biomass	27	24.630
BM-1003-02	MSS-445	Indeck West Enfield	Biomass	27	24.172
SL-1005-02	NON-32115	Solar New England	Photovoltaic	0.078	
LG-1006-02	MSS-1572	Granby Sanitary Landfill	Landfill Gas	3.2	2.800
	NON-32106	Granby LFG Off Grid			
LG-1007-02	MSS-952	Pontiac Energy	Landfill Gas	0.5	0.235
LG-1008-02	NON-32120	Chicopee - 1	Landfill Gas	1.9	
LG-1009-02	NON-32121	Chicopee - 2	Landfill Gas	1.9	
LG-1010-02	NON-32122	Chicopee - 3	Landfill Gas	1.9	
LG-1011-02	MSS-1209	Hartford Landfill	Landfill Gas	2.8	1.900
WD-1012-02	MSS-1656	Hull Wind Turbine	Wind	0.66	0.165
LG-1013-02	MSS-1224	Randolph/BF G Electric Facility	Landfill Gas	3	1.171
LG-1014-02	MSS-1432	Sykes Rd - GRS-Fall River	Landfill Gas	5.7	3.900
AD-1015-02	NON-32408	Deer Island	Anerobic Digester	18	
WD-1017-02	MSS-968	Princeton Wind Farm	Wind	0.32	0.000
LG-1018-02	MSS-253	Turnkey Load Reducer	Landfill Gas	3.2	3.129
	MSS-715	Rochester Landfill		6.4	4.980
	MSS-2462	Plainville		5.6	5.000
	MSS-451	Johnston Landfill		12	12.000
	MSS-10366	Johnston RRIG, Phase 1		2.4	2.400

LG-1020-02	MSS-10959	Johnston RRIG Phase 2	Landfill Gas	6	6.024
LG-1021-04	MSS-942	Dunbarton Road Landfill	Landfill Gas	1.2	0.829
LG-1022-03	TBD	MM Cuyahoga	Landfill Gas	3.8	
LG-1023-03	MSS-10451	Westfield #1	Landfill Gas	0.48	0.244
BM-1024-04	MSS-629	Deblois	Biomass	25.85	18.034
	MSS-11052	Greater New Bedford			3.300
	NON-32586	Greater New Bedford - Off Grid			
LG-1025-04			Landfill Gas	3.28	
BM-1026-04	MSS-956	Ware Cogen	Biomass	8.6	0.000
LG-1027-04	IMP-32515	Model City	Landfill Gas	5.6	
SL-1028-04	NON-32509	Mass Energy Aggregate PV	Photovoltaic	0.036	
SL-1029-04	NON-32511	MA PV Cluster	Photovoltaic	0.268	
LG-1030-04	IMP-32528	Seneca Falls	Landfill Gas	17	
WD-1031-04	IMP-32487	Fenner	Wind	30	
AD-1032-04	MSS-10615	Blue Spruce Farm	Anerobic Digester	0.274	0.275
BM-1033-05	TBD	Iggy's Biodiesel	Biomass	0.045	
LG-1034-05	MSS-10801	Coventry Landfill			4.8
	MSS-12323				1.525
LG-1035-05	NON-32676	Nanticoke LFG	Landfill Gas	2.1	
WD-1037-05	NON-32545	Mass Energy Small Wind	Wind	0.01	
SL-1038-06	NON-14135	Brockton Brightfield	Photovoltaic	0.425	
BM-1039-05	MSS-429	Greenville Steam	Biomass	20	15.096
LG-1040-05	IMP-32561	Ontario Landfill	Landfill Gas	5.6	
LG-1041-05	IMP-32584	Colonie Landfill	Landfill Gas	4.8	
LG-1042-05	TBD	Development Authority of North Country	Landfill Gas	4.8	
BM-1043-06	MSS-463	Livermore Falls	Biomass	40	34.430

LG-1045-05	IMP-32580	Modern LFG	Landfill Gas	6.4	
WD-1049-06	MSS-11408	Hull Wind 2	Wind	1.8	1.800
WD-1050-06	IMP-32611	Mars Hill	Wind	42	
WD-1052-06	IMP-32622	West Cape Wind	Wind	99	
SL-1057-06	NON-32597	One Oak Hill Road PV	Photovoltaic	0.147	
WD-1059-06	NON-32596	Mass. Maritime Academy	Wind	0.66	
SL-1060-06	NON-32594	Mass Energy Aggregate	Photovoltaic	0.92	
WD-1061-06	IMP-32625	Steel Winds	Wind	20	
WD-1062-06	IMP-32620	Maple Ridge	Wind	90.75	
BM-1053-06	MSS-557	Schiller Station	Biomass	50	43.285
BM-1048-06	TBD	Laidlaw	Biomass	5.5	
AD-1063-07	MSS-12180	Berkshire Cow Power	Anerobic Digester	0.6	0.500
AD-1065-07	MSS-12274	Green Mountain Dairy Farm	Anerobic Digester	0.33	0.166
WD-1066-07	IMP-32646	Madison Windpower	Wind	11.5	
LG-1068-07	TBD	MM Albany	Landfill Gas	6.6	
WD-1069-07	IMP-32614	Mount Miller	Wind	54	
WD-1070-07	IMP-32613	Mount Copper	Wind	54	
LG-1071-07	MSS-32613	Manchester Methane	Landfill Gas	3.2	0.000
SL-1072-07	NON-32619	Shad Hall Photovoltaic	Photovoltaic	0.03645	
SL-1073-07	n/a	GSA Waltham, Solar Array	Photovoltaic	0.325	
WD-1074-07	TBD	West Hill	Wind	39	
LG-1077-07	MSS-14271	Ameresco Northampton	Landfill Gas	0.808	0.000
WD-1078-07	IMP-32637	Munnsville	Wind	34.5	
LG-1079-07	MSS-14098	Fitchburg Landfill	Landfill Gas	3.2	0.000
AD-1080-07	MSS-14134	Montagne Farm	Anerobic Digester	0.38	0.084
LG-1081-07	IMP-32645	WM Mill Seat	Landfill Gas	4.8	
LG-1082-07	IMP-32644	Wm Chaffee	Landfill Gas	4.8	
SL-1083-07	NON-32626	Mass. Maritime	Photovoltaic	0.08	
WD-1086-08	NON-13933	Jiminy Peak Wind	Wind	1.5	1.500

BM-1054-08	NON-32652	Seaman Paper	Biomass	0.3	
LG-1087-08	MSS-14767	Pine Tree Landfill	Landfill Gas	3.17	2.870
LG-1089-08	MSS-14707	Covanta Haverhill	Landfill Gas	1.6	1.600
WD-1067-08	MSS-11827	Portsmouth Abbey Wind Turbine	Wind	0.66	0.660
WD-1088-08	TBD	Mann Siding Power	Wind	150	
WD-1092-08	TBD	Princeton Wind Farm (MA)	Wind	3	0.000
LG-1094-08	IMP-32690	High Acres	Landfill Gas	9.6	

Totals

1,016.792 223.962

Exhibit C

Import Regulation

Commencing January 1, 2009, a renewable energy generating source (“Source”) located in a control area adjacent to the ISO-NE Control Area in order to be qualified as a Source as defined in subsection (b) of section 11F of Chapter 25A of the General Law must have a capacity obligation to the ISO-NE for a minimum period of one year backed either by that Source or by the adjacent control area in which that Source is located (the “Capacity Obligation”). Such Capacity Obligation shall be no less than what that Source would qualify for as a capacity resource if such Source was located in the ISO-NE Control Area.

Such Source shall receive renewable energy credit only to the extent that the energy imported into the ISO-NE Control Area satisfied all of the following requirements:

1. a. Up to the Capacity Obligation, the Source’s energy for that hour was accepted in the Day-Ahead Market of ISO-NE; or
- b. For energy in excess of Capacity Obligation, the Source’s energy for that hour was accepted in the Real-time Market of ISO-NE.; and

2. the Source generated the energy during the hour in question; and
3. the Source's energy for that hour was scheduled and delivered to ISO-NE Control Area pursuant to a properly executed and documented NERC tag from the Source in the adjacent control to either a node or a zone in the ISO-NE Control Area.

Any energy produced by the Source for that hour (i) not accepted in the Day-Ahead or Real-time Markets of ISO-NE as proscribed above or (ii) produced by the Source in excess of the amount listed on the NERC tag shall not qualify as renewable energy and shall not receive renewable energy credit.

Energy produced by a Source located in a control area adjacent to the ISO-NE Control Area, which was subject to a binding contract entered into before July 2, 2008 between the owner of the Source and a buyer located in ISO-NE that is reselling the energy as a renewable energy to retail customers located in ISO-NE, shall not be subject to the requirements of paragraph (c) of Section 105. However, any other energy produced by that Source shall be subject to the requirements of paragraph (c) of Section 105.

Exhibit D

Greenwashing Regulation

Renewable energy credit shall be reduced to any renewable energy generation source (the “Source”) located in a control area adjacent to ISO-NE Control Area by the amount of energy exported by the owner, its affiliates or its agents from the ISO-NE Control Area to the control area where the Source is located during the weekly period in question.

Within 30 days of the close of the weekly period in question, the owner, its affiliates or its agents, claiming such credit, must supply to the Department the following:

1. documentation of all energy imported into or exported from the ISO-NE Control Area by the owner, its affiliates or its agents. Such documentation shall be sufficient to determine compliance with Section 105 (e) of the Green Communities Act. Subject to appropriate confidentiality, the Department shall make this information available to the public, including the Market Monitoring Unit of ISO-New England and the Administrator of the NEPOOL Generation Information System.
2. an affidavit stating one of the following:

- a. that no energy was exported from ISO-New England to the control area where the Source is located during the weekly period; or
- b. that, if energy was exported from ISO-New England to the control area where the source is located during the weekly period, the calculation of the net renewable energy credit claimed by the Source.

Within 60 days of the close of the weekly period in question, any person must present its challenge to any renewable energy credit granted to the Source. Within 90 days of the close of the weekly period in question, the Department shall resolve any challenges and publish such determinations.